

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I yield back all remaining time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Michael P. Shea, of Connecticut, to be U.S. District Judge for the District of Connecticut?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Virginia (Mr. WEBB) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from South Carolina (Mr. DEMINT), and the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "nay," and the Senator from Tennessee (Mr. ALEXANDER) would have voted "nay."

The PRESIDING OFFICER (Mr. BENNET). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 23, as follows:

[Rollcall Vote No. 222 Ex.]

YEAS—72

Akaka	Graham	Merkley
Ayotte	Grassley	Mikulski
Baucus	Hagan	Moran
Begich	Harkin	Murkowski
Bennet	Hatch	Murray
Bingaman	Hoeven	Nelson (NE)
Blumenthal	Inouye	Nelson (FL)
Boxer	Johanns	Portman
Brown (MA)	Johnson (SD)	Pryor
Brown (OH)	Johnson (WI)	Reed
Burr	Kerry	Reid
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Kyl	Sessions
Casey	Landrieu	Shaheen
Coats	Lautenberg	Shelby
Collins	Leahy	Snowe
Conrad	Levin	Stabenow
Coons	Lieberman	Tester
Corker	Lugar	Udall (CO)
Durbin	Manchin	Udall (NM)
Feinstein	McCain	Warner
Franken	McCaskill	Whitehouse
Gillibrand	Menendez	Wyden

NAYS—23

Barrasso	Enzi	Risch
Blunt	Heller	Roberts
Boozman	Hutchison	Rubio
Chambliss	Inhofe	Thune
Coburn	Isakson	Toomey
Cochran	Lee	Vitter
Cornyn	McConnell	Wicker
Crapo	Paul	

NOT VOTING—5

Alexander	Kirk	Webb
DeMint	Rockefeller	

The nomination was confirmed.

Mr. COBURN. Mr. President, I wish to explain my vote against Mr. Michael

Shea, nominee to the District Court of Connecticut. My decision is based on Mr. Shea's assistance in drafting an anticus brief in the Supreme Court case of *Kelo v. New London* on behalf of the Connecticut Conference of Municipalities and other municipalities.

The *Kelo* decision delivered a serious blow to private property rights by upholding a municipality's use of eminent domain to seize private homes and transfer the property to a pharmaceutical company for purposes of "economic development." As Justice Sandra Day O'Connor stated in her dissent, the "Court abandoned its long-held, basis limitation on government power" in the *Kelo* case. The Fifth Amendment of the Constitution states: "No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." The *Kelo* decision altered what was traditionally viewed as "public use." As Justice O'Connor noted, as a result of this decision, "Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory. . . . Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms."

In contrast, Mr. Shea's amicus brief argued the eminent domain action taken by New London was constitutional and should be upheld. He asserted the "taking of some of the petitioners' homes" is "undeniably a genuine cost of realizing the City's goal of improving the economic well-being of its citizens." But, the Public Use Clause "sweeps as broadly as the [State's] police powers." He said siding with the *Kelo* plaintiffs in the case would "contort" the Public Use Clause. Justice Stevens, the author of the 5-4 majority opinion in *Kelo*, cited Mr. Shea's brief in his opinion.

Perhaps the saddest aspect of this case is the "economic development" that was key to the taking being a "public use" never happened because the developer could not get funding. Susette Kelo lost her property for nothing. The site of her former home is a garbage dump. This fact exposes another reason the takings clause was only intended for public use, because the government is more likely to have the funding ready to use the property. Normally, I would not hold a lawyer responsible for the legal views of his clients, but the *Kelo* decision dealt such a serious blow to private property rights, a crucial element of our founding principles, and so clearly departs from the original understanding of the Constitution, I feel I must vote no.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid

upon the table. The President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session.

The Senator from Michigan.

RUSSIA AND MOLDOVA PNTR

Mr. LEVIN. Mr. President, the Russia PNTR bill that is before us takes a long overdue action by ending the application of Jackson-Vanik sanctions to Russia. Jackson-Vanik is no longer relevant to Russia because Russia no longer restricts the free emigration of its people.

The Soviet Union began to relax its restrictions on Jewish emigration in 1987, during Gorbachev's perestroika. Following the collapse of the Soviet Union in 1991, millions of Soviet Jews were permitted to leave. Since then, Russia has allowed free emigration.

I have felt for a long time that we should have graduated Russia from Jackson-Vanik when Jackson-Vanik's noble purpose was achieved, rather than waiting years, often in the effort to make other points relative to Russia on other issues. First some history.

In 2007, I met with Rabbi Lazar, chief rabbi of Russia, regarding Jackson-Vanik. He urged passage of legislation ending the application of Jackson-Vanik to Russia.

Also in 2007, I received a letter from the chairman of the Federation of Jewish Communities, which represents presidents and rabbis of over 200 Jewish communities in Russia, a letter which urged me to work to graduate Russia from the Jackson-Vanik amendment in view of the fact that its goals had already been met. Part of his letter reads as follows:

[We are thankful for all your efforts toward gaining freedom for our country's Jews. We will always appreciate the role of Jackson-Vanik in bringing about change. We also remain grateful to those who forced the U.S.S.R.'s Communist regime to permit Jews to emigrate, and to end discrimination. For us this was a huge morale boost—Jews behind the Iron Curtain were thrilled that Americans were willing to risk political and economic confrontation, in order to stand up for the freedom and rights of their fellow human beings.]

He continued:

Nevertheless, in the last 15 years the situation has changed, radically. The freedom for Soviet Jews to live wherever they desire was fully obtained; nearly a million Jews from the F.S.U. now live in Israel, while hundreds of thousands live in other countries throughout the world. We are positive that these developments were in part thanks to the American lawmakers who supported the Jackson-Vanik amendment. Yet we now see a backward migration, when Jews from abroad move back to Russia. This proves that Jews in Russia feel as confident as those inhabiting other countries of the Free World.

The rabbi added: "The provisions of the Jackson-Vanik amendment have